



Ontario

Ministry  
of  
Revenue

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## Retail Sales Tax Branch

# Information Bulletin

## Retail Sales Tax Act

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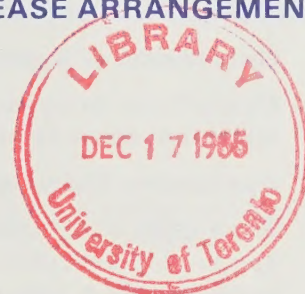
This bulletin outlines the revised tax policy concerning fund-raising events, computer software, and repair charges for exempt vehicles under gross lease arrangements. It also provides information concerning the administration of other areas of the legislation. **It does not, however, deal with the changes to the Retail Sales Tax Act proposed by the Treasurer of Ontario in the Budget of October 24, 1985. These proposals will be published in a future bulletin, when they receive Royal Assent.**

The details presented in this bulletin are intended only as a guideline. For specific applications you should refer to the Retail Sales Tax Act and Regulations.

If you require copies of the Act or Regulations or further information on any of the topics discussed in this bulletin, please contact your local Retail Sales Tax Office listed on the back page.

### INFORMATION HIGHLIGHTS

- FUND-RAISING EVENTS — \$75,000 ANNUAL SALES LIMIT ELIMINATED
- SCAFFOLDING RENTALS — LABOUR TO ERECT AND DISMANTLE
- REPAIR AND MAINTENANCE OF EXEMPT VEHICLES UNDER GROSS LEASE ARRANGEMENTS
- TAXATION OF COMPUTER SOFTWARE — CLARIFICATION
- GOODS PURCHASED TO PROVIDE SERVICES
- GOODS IMPORTED FOR OWN USE
- RETURNED GOODS — REFUNDS OF TAX
- PARTS FOR PRODUCTION EQUIPMENT
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#### FUND-RAISING EVENTS — \$75,000 ANNUAL SALES LIMIT ELIMINATED

The Retail Sales Tax regulation governing fund-raising events of religious, charitable, benevolent and non-profit organizations has been amended:

1. Effective June 5, 1985, the \$75,000 annual taxable sales limit is removed.
2. Effective January 1, 1986, these organizations are required to pay tax on prepared food products purchased for sale at fund-raising events.

In effect, these organizations are relieved from collecting and remitting sales tax **regardless of their total annual taxable fund-raising sales**, provided that:

- events are not held on a weekly, monthly or other regularly scheduled basis; and
- the organization has paid sales tax on taxable goods, **including prepared food products**, purchased for sale at fund-raising events.

This revised policy does not apply when the organization is in direct competition with commercial operators on the same site, such as at a fair or exhibition. If the organization is in competition with commercial operators, it is required to collect tax on its sales but may purchase the goods for resale exempt from tax.

#### SCAFFOLDING RENTALS — LABOUR TO ERECT AND DISMANTLE

The tax treatment of labour to erect and dismantle scaffolding is summarized below.

##### Type of Contract

- a) Lessor supplies the scaffolding and the labour to erect and dismantle under one contract or separate contracts.
- b) Lessor supplies the scaffolding only; lessee uses his own labour to erect and dismantle.
- c) Lessor supplies the scaffolding only; lessee engages a second contractor to erect and dismantle.

##### Retail Sales Tax Treatment

Tax applies on the total charge whether or not the individual elements are segregated on one bill or on separate bills.

Tax applies on the charge for the use of scaffolding only; no tax is payable by the lessee on own erection and dismantling labour.

Tax applies on the charge for the use of the scaffolding and for erection labour.

Dismantling labour charge is not taxable if billed separately.





## REPAIR AND MAINTENANCE OF EXEMPT VEHICLES UNDER GROSS LEASE ARRANGEMENTS

Prior to August 1, 1985, the lessor of an exempt vehicle under a **gross lease** was required to segregate and collect tax on the charge for repair and maintenance of the vehicle. **Gross lease** means any lease that includes repair and maintenance in the rental price.

Effective August 1, 1985, the lessor of an exempt vehicle under a gross lease will not be required to segregate or collect tax on the repair and maintenance charge. Neither is the lessor required to pay tax on the cost of repair and maintenance of vehicles under gross lease contracts.

Exempt vehicles are:

- (a) vehicles required to be licensed under the **Highway Traffic Act** and powered exclusively by any of the following alternative fuels:
  - manufactured gas
  - hydrogen
  - propane
  - natural gas
  - alcohol (methanol, ethanol)
  - electricity
- (b) vehicles described in (a) that can also run on conventional petroleum-based fuels, but not on a mixture of an alternative fuel and gasoline or diesel fuel
- (c) highway truck tractors with a gross vehicle mass rating of 11,778 kilograms or more
- (d) trucks, truck-trailers, tractor-trailers and semi-trailers with a gross vehicle mass rating of 11,778 kilograms or more that are designed to carry goods or freight.



## TAXATION OF COMPUTER SOFTWARE — CLARIFICATION

The following tax policy to be followed by vendors and purchasers of software supersedes that published in Information Bulletin Number 1-85, February, 1985.

Vendors of software have already been informed of this policy change and were expected to make the necessary adjustments by October 1, 1985. Vendors who are in doubt about whether tax applies to their product should contact the nearest Retail Sales Tax Office.

### Operational or Systems Software

Operational or systems software is considered to be an integral part of a computer and is therefore subject to retail sales tax at the rate of 7%.

### Application Software

The supply of software, known in the trade as “off-the-shelf”, “pre-packaged” or “pre-written” software, supplied in executable code only and not intended to be modified or changed by, or on behalf of, the purchaser is a sale of **tangible personal property**. Such software is normally mass produced and supplied with instructions and on discs, tapes or other media supplied **by the vendor** together with a licence arrangement commonly referred to as an “assumed” or “adhesion” or “shrink-wrapped” licence. The total charge for such software is subject to 7% retail sales tax regardless of how sold.

The supply of other software is the provision of a **non-taxable service**. In these circumstances, tax does not apply to the software charge but the vendor is liable for tax on the materials and equipment used to provide such service. Such non-taxable services include:

- the transfer of any software to disc, tape or other media supplied by **the purchaser**. The transfer may be made by the vendor, either directly or by wire transfer, or by the purchaser, who returns the carrying media to the vendor;
- the sale of custom software, specifically designed and developed for the exclusive use and special requirements of a customer;
- the sale of software under a specifically negotiated and signed licence arrangement between the producer and the user. It should be noted, however, that application software as described above, sold under a standardized agreement, signed by a retailer and the purchaser, will be considered tangible personal property subject to retail sales tax.

### Software Maintenance

Charges for the maintenance and upgrading of taxable software are subject to tax but are exempt if for exempt software.



## GOODS PURCHASED TO PROVIDE SERVICES

For retail sales tax purposes, there are two categories of services:

1. taxable services — hotel and motel accommodation; labour provided to repair, maintain, install or adjust tangible personal property; and telecommunication services
2. non-taxable services — any services other than those mentioned above.

Whether or not a service is taxable, the person rendering that service is required to pay tax on all equipment, supplies and other items purchased to provide the service, except items specifically exempt under the Retail Sales Tax Act. The fact that tax is collected on a taxable service does not exempt a vendor of that service from paying tax on his purchases.





## GOODS IMPORTED FOR OWN USE

Ontario residents often import equipment, parts, supplies, promotional materials, etc. for use in the operation of their businesses as well as items for personal use. When this occurs, the importer is required to pay tax on the fair value of taxable items brought into Ontario.

Ontario does not collect its sales tax directly from the importers at the ports of entry, as does the federal government. Instead, Ontario relies on the importers to voluntarily comply with the requirements of the law by self-assessing and remitting the applicable Ontario sales tax to the Treasurer of Ontario. The tax should be calculated on the landed cost in Ontario, including the cost price in Canadian funds, any customs duties, federal sales and excise taxes, and delivery and transportation charges where applicable.

If the importer is a registered vendor, the tax payable on imports should be shown on line 3 of the periodic return and remitted at the time of filing. If the importer is not a vendor, a cheque for the amount of tax payable on imports should be forwarded to the Retail Sales Tax Branch with a brief explanation of the payment.

This self-assessment system has worked well for most importers. Those few who do not comply are subject to assessment of the tax and interest and, in some cases, a penalty.



## RETURNED GOODS — REFUNDS OF TAX

The Retail Sales Tax Act prescribes the specific circumstances under which a vendor may refund to a customer some or all of the tax collected from the customer. One of these is when the customer, because of dissatisfaction with the transaction, returns within a reasonable time all or part of the goods purchased, and the vendor agrees to refund all or part of the purchase price.

The amount of tax refundable must be calculated on that part of the purchase price refunded by the vendor. For example, if a customer returns an item originally purchased for \$440 (before tax) and the vendor retains \$40 as a re-stocking charge and refunds the balance of the purchase price, the amount of tax refundable is calculated as follows:

Original Purchase Price	\$440
Less Re-stocking Charge	40
Amount of Purchase Price Refunded	<u>\$400</u>
Tax Rate	<u>7%</u>
Tax Refundable	<u>\$ 28</u>

The vendor is allowed to offset the tax refunded to customers against the tax collected during the month and remit the net amount of tax payable.



## PARTS FOR PRODUCTION EQUIPMENT

Manufacturers are reminded that parts for production machinery and equipment are exempt from retail sales tax if such parts are exempt under Part XIII of Schedule III to the Excise Tax Act (Canada).

For retail sales tax purposes, a manufacturer is a person who produces goods for sale or for own use and meets either of the following conditions:

- a) the goods sold to others exceed \$5,000 per fiscal year
- b) the goods for own use exceed \$50,000 per fiscal year.

If you are a manufacturer, you should purchase such parts exempt from retail sales tax. By taking advantage of the exemption you will avoid the initial cash outlay and the subsequent costs associated with claims for refund.



## GOODS REMOVED FOR PERMANENT USE OUTSIDE ONTARIO

Some businesses with an Ontario head office and branches in other provinces make central purchases in Ontario of goods for own use. Examples of such purchases are advertising material, stationery, office supplies, office equipment.

These businesses are expected to pay Ontario retail sales tax at the time of purchase. They may apply for a refund of the tax paid on items shipped to their branches outside Ontario.

Refunds of such tax will be allowed provided that:

- the goods have not been used in Ontario prior to the shipment;
- the claim is made within three years of the date of payment of the tax.

While the tax is refunded by Ontario, it is the purchaser's responsibility to remit the applicable sales tax to the jurisdiction where these goods are used. Under current legislation, Ontario does exchange information with other taxing jurisdictions, and may provide particulars about the purchasers and the value of their purchases to these jurisdictions.





## ONTARIO SALES TAX GUIDES

The Retail Sales Tax Branch has published a series of guides to assist vendors and taxpayers on retail sales tax matters. These guides provide information about:

- items on which tax applies
- some of the exemptions available and the types of purchasers who qualify for them
- refunds and how to apply for them
- obligations of purchasers and consumers
- obligations of vendors.

A complete list of these guides was first published in our Information Bulletin Number 1-84 dated June, 1984. Some of these guides have been updated and re-issued to reflect changes in legislation, tax policies and administrative procedures. Following is a list of the revised guides, including two new guides:

Guide No.	Date Issued	Topic
101	1/85	How to Complete Your Tax Return
104	9/85	Purchase Exemption Certificates
105	8/85	Penalties (reinstated)
111	1/85	Production Machinery and Consumables (reinstated)
114	8/85	Destruction of Records
117	9/85	Private Sales
120	1/85	Labour Charges
130	10/85	Recreational Facilities
143	8/85	Religious, Charitable and Benevolent Organizations
147	3/85	Farmers
148	7/85	Newspapers and Supplements
150	3/85	Retail Sales Tax Rates (new)
151	9/85	Motor Vehicle Dealers (new)

Retail sales tax guides in your possession bearing the above numbers but with an earlier issue date than shown, should be destroyed as the information in them is not current. You may obtain updated versions by contacting the nearest Retail Sales Tax Office.

FOR FURTHER INFORMATION CONSULT THE RETAIL SALES TAX OFFICE IN YOUR AREA,  
AS LISTED BELOW.

BELLEVILLE K8N 1E2	191 Dundas Street East 962-9108 Zenith 37100	NORTH BAY P1B 2H3	1500 Fisher Street Northgate Plaza 474-4900 Toll Free: 1-800-461-1564 1-800-461-1671	SUDBURY P3E 5P9	Ontario Government Bldg. 199 Larch St. 675-4351 Toll Free: 1-800-461-1564
HAMILTON L8N 3Z9	119 King Street West P.O. Box 2112 521-7504 Toll Free (519, 416) Areas: 1-800-263-9229 Toll Free (416) Area: 1-800-263-9238	ORILLIA L3V 6K5	19 Front Street North P.O. Box 670 325-9587 Zenith 37100	THUNDER BAY P7C 5G6	Ontario Government Bldg. 435 James Street South P.O. Box 5000 475-1681 Toll Free: 1-800-465-5025
KITCHENER N2M 1N2	449 Belmont Ave. W. 576-8400 Toll Free (519) Area: 1-800-265-8700 Toll Free (705, 416) Areas: 1-800-265-2303	OSHAWA L1H 8K1	33 King Street West P.O. Box 629 433-6240 Zenith 37100	TORONTO M4P 1H6	2300 Yonge St. 10th Floor 487-1361 Zenith 71800
LONDON N6C 4P4	310 Wellington Rd. S. 433-3901 Toll Free: 1-800-265-1540	OTTAWA K1H 8K7	1355 Bank Street 523-9760 Toll Free: 1-800-267-9745	WINDSOR N9A 6V9	Ontario Government Bldg. 250 Windsor Ave. 252-4404 Toll Free: 1-800-265-1540
		PEEL L4Z 1H8	2 Robert Speck Parkway Suite 350 Mississauga 273-9490 Toll Free: 1-800-268-2968		

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